

PROFESSIONAL SERVICES CONTRACT

THIS CONTRACT is entered into by and between **Lincoln Action Program, Inc.**, Lincoln, Nebraska (hereinafter the Agency), and the **City of Lincoln on behalf of the Lincoln-Lancaster County Health Department** (hereinafter the Contractor), upon the date of signature by both parties.

WITNESS THAT: The **Agency** and the **Contractor** do mutually agree as follows:

1. **Services to be provided by the Parties:** The Contractor shall complete in a satisfactory and proper manner, as determined by the Agency, the work activities described in the Scope of Work (Attachment A to the Contract).

The Agency will provide such assistance and guidance as may be required to support the objectives set forth in the Scope of Work and will provide compensation for services completed as set forth in Section 3 below.

2. **Time of Performance:** The period covered under this Contract shall be from February 1, 2010 through January 31, 2013. All activities as defined in the Scope of Work and all requests for payment of funds must be submitted to Agency within 30 days of Contract termination date. The termination date of the Contract shall be January 31, 2013.
3. **Consideration:** The Agency shall reimburse the Contractor for all allowable expenses agreed upon by the parties to complete the Scope of Work at the rate of up to \$416.00 per month per month for the duration of this Contract. In no event shall the total amount reimbursed by the Agency exceed the sum of \$14,976.00.

Reimbursement under this Contract shall be based on monthly billings to be submitted by the 10th of each month and supported by appropriate documentation of costs actually incurred. Claims for reimbursement shall not be submitted in excess of actual expenses currently incurred in carrying out the Scope of Work.

The Contractor shall provide the information on the final billing for contract fiscal years 2011 through 2013 no later than March 2, 2013. Billings submitted after March 2, 2013 may not be eligible for payment.

In addition, the Contractor will provide \$3,692.00 in Lincoln-Lancaster County Health Department services as in-kind services.

4. **Relationship:** It is the express intent of the parties that this Contract shall not create an employer-employee relationship, and the Contractor, or any employee or other person acting on behalf of Contractor in the performance of this Contract, shall be deemed to be an independent Contractor during the entire term of this Contract or any renewals thereof. The Contractor shall not receive any additional compensation in the form of wages or benefits from the Agency which are not specifically set forth in this Contract. The Contractor shall assume full responsibility for payment of all federal, state, and local taxes or contributions imposed or required under unemployment insurance, social security and income tax law, with respect to the Contractor or any such employees of the Contractor as may be engaged in the performance of this Contract. It is the express intent of the parties that this Contract shall not create

an agency relationship between the parties. Neither the Agency nor its employees shall be deemed agents of the Contractor, and neither the Contractor nor its employees shall be deemed to be agents of the Agency.

5. Federal Funding:

a. Use of Funds. It is understood that this Contract may be funded in whole or in part with funds allocated by the Federal government and is therefore subject to those regulations, restrictions, and conditions normally associated with federally funded programs and any other requirements that the state or federal government may prescribe.

b. Discontinued Funding. Either party may terminate this Contract immediately in the event that funding should be discontinued or be materially reduced. Prior to termination due to funding reductions, both parties agree to make every effort possible to effect any necessary program changes to maintain a viable program.

6. Changes, Amendments, and Modifications: The Agency may require changes or modifications in the Scope of Work to be performed hereunder. Such changes, including any increase or decrease in the amount of compensation, which are mutually agreed upon by the Agency and the Contractor, shall be incorporated in written amendments to this Contract.

7. Assignability: The Contractor shall not assign any interest in this Contract and shall not transfer any interest in this Contract without prior written consent of the Agency, which consent shall be granted or denied in Agency's sole discretion.

8. Reports and Information: The Contractor, at such times and in such form as designated by the Agency, shall furnish periodic reports pertaining to the Scope of Work, costs incurred in connection with the services and any other matters covered by this Contract.

The Contractor shall submit to the Agency such reports as may be required by the U.S. Department of Health & Human Services or the Agency to aid in the completion of progress reports and/or grant applications. The Contractor ensures the cooperation of appropriate staff in providing timely and accurate program reports.

9. Confidentiality: Agency's business, operations, finances, customers, software products, processes, designs, techniques, trade secrets, copyrights and other business information which the Agency deems confidential, private or proprietary is defined and referred to herein as "Confidential Information." Unless required by law, Contractor shall not disclose any Confidential Information to any person who has not been previously authorized in writing by the Agency to receive such information. Contractor shall not use or in any way appropriate the Confidential Information for any purpose other than the performance of services under the terms of this Contract.

10. Compliance with Laws: The Contractor shall comply with all applicable federal, state, and local laws, ordinances, and codes.

11. Insurance Requirements: The Contractor is a self-insured entity. It will provide coverage equivalent to the following:

a. **Workers' Compensation Insurance:** The Contractor shall purchase and maintain during the term of this Contract Workers' Compensation Insurance fully insuring its employees as required

by law. Said insurance shall be obtained from an insurance company which is authorized to do business in the state of Nebraska. This shall be the sole responsibility of the Contractor.

- b. **Social Security Insurance and Federal Withholding Payments:** The Contractor shall be solely responsible for these and any like obligations as required by law.
- c. **General Liability Insurance:** The Contractor shall purchase and maintain during the term of this Contract General Liability Insurance naming and protecting them and the Agency against claims for damages resulting from 1) Bodily injury, including wrongful death, 2) personal injury liability and 3) property damage which may arise from operations under this Contract whether such operations be by the Contractor or any one directly or indirectly employed by them. The minimum acceptable limits of liability provided by such insurance shall be as follows:
- | | |
|----------------------------------|--|
| i. Bodily Injury/Property Damage | \$1,000,000 Each Occurrence
\$1,000,000 Aggregate |
| ii. Personal Injury Damage | \$1,000,000 Each Occurrence |
| iii. Automotive Liability: | |
| Bodily Injury & Property Damage | \$1,000,000 Combined Single Limit |

12. Breach of Contract: In the event of a default or violation of the terms of this Contract by the Contractor or failure to use funds for only permitted purposes, the Agency may, at its discretion, take any one or more of the following actions immediately upon written notice to the Contractor:

- a. **Suspension:** Suspend the Contract and withhold any further payment or prohibit the Contractor from incurring additional obligations of grant funds, pending corrective action by the Contractor.
- b. **Termination:** Terminate the Contract in whole, or in part, at any time before the date of completion. The Agency will promptly notify the Contractor of the termination in writing and will include the reasons for the termination and the effective date of the termination.
- c. **Contract for Replacement Services.** Contract with a third party for provision of the services required to complete this Contract and hold the Contractor liable for all expenses incurred in achieving such performance.
- d. **Other Remedies.** The Agency may pursue any other remedies available at law or equity. The pursuit of one remedy does not preclude the pursuit of any other remedy.

Payments made to the Contractor or recoveries by the Agency under contracts terminated for cause will be in accord with the legal rights and liabilities of the parties. Payments and recoveries may include, but are not limited to, payments allowed for costs determined to be in compliance with the terms of this Contract up to the date of termination. The Contractor will return to the Agency all unencumbered funds. Further, any costs previously paid by the Agency which are subsequently determined to be unallowable will also be returned to the Agency.

In the event of any termination, all finished or unfinished documents, data, studies and reports prepared by the Contractor under this agreement shall be disposed of according to Lincoln Action Program and U.S. Department of Health & Human Services directives. The Contractor shall be entitled to compensation for any unreimbursed expenses reasonably and necessarily incurred in satisfactory performance of this Contract that are of use to the Agency.

- 13. Termination for Convenience:** The Contractor may terminate this Agreement for any reason for its own convenience. If Contractor terminates the Agreement for convenience, Contractor shall provide Agency with thirty (30) days written notice of termination. Upon termination, the Agency shall pay the Contractor for any approved and documented services completed up to the date of termination, but not to exceed the maximum amount allowed by this Agreement.
- 14. Hold Harmless:** The Agency and the Contractor mutually agree to indemnify and hold harmless each other, their representatives, and employees from and against all claims, demands, suits, actions, payments, liability, judgments and expenses, including court ordered attorneys' fees, arising out of or resulting from the performance of this Contract that results in bodily injury, civil rights liability, sickness, disease, death, or injury to or destruction of tangible property, including the loss of use resulting there from, and is caused in whole or in part by the Agency or Contractor, its employees, agents or representatives, either directly or indirectly employed by them. This section will not require each other to indemnify or hold harmless each other for any losses, claims, damages and expenses arising out of or resulting from the negligent or intentional acts of each other, their employees, agents or representatives. The Contractor does not waive its governmental immunity by entering into this Agreement and fully retains all immunities and defenses provided by law with regard to any action based on this Agreement.
- 15. Certification with Regard to Lobbying:** No Federal appropriated funds will be paid to any person for influencing or attempting to influence an officer or employee of Congress or an employee of a member of Congress in connection with the awarding of any federal Contract, the making of any federal grant or loan, the entering into of any cooperative agreement or the extension, continuation, renewal, amendment or modification of any federal Contract, grant, loan, or cooperative agreement.
- If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an office of employee of any agency, a Member of Congress, an officer of employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- 16. Equal Employment Opportunity:** The Equal Employment Opportunity Clause required under Executive Order 11246, the affirmative action commitment for disabled veterans and veterans of the Vietnam era, set forth in 41 CFR 60, the affirmative action clause for handicapped workers, set forth in 41 CFR 60, and the related regulations of the Secretary of Labor, 41 CFR Chapter 60, are incorporated by reference in this contract. By accepting this contract, vendor certifies that it complies with the authorities cited above, and that it does not maintain segregated facilities or permit its employees to perform services at locations where segregated facilities are maintained, as required by 41 CFR 60.
- 17. Copeland "Anti-Kickback" Act:** All contracts in excess of \$2,000 for construction or repair awarded by recipients of Federally appropriated funds shall comply with 18 U.S.C. 874, the Copeland "Anti-Kick Back" Act, as supplemented in Department of Labor regulations 29 CFR 3. This Act provides that each contractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled.
- 18. Davis-Bacon Act:** All contracts in excess of \$2,000 for construction or repair awarded by recipients of Federally appropriated funds shall comply with 40 U.S.C. 276a to a-7, the Davis-Bacon Act, as amended and as supplemented by Department of Labor Regulations 29 CFR 5. This Act provides that contractors and their subcontractors are to pay workers employed directly upon the site of the work no less than the locally prevailing wages and fringe benefits paid on projects of a similar character.

- 19. Drug Free Work Place:** The Contractor is considered a representative of the Agency while carrying out the duties of this contract. The Agency has a policy that prohibits the possession and/or use of alcohol or illegal drugs when conducting Agency business. If the Contractor is observed engaging in this type of behavior while performing any aspect of this contract, termination of the contract will occur.
- 20. Debarment and Suspension:** The contractor certifies, by submission of this contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
- 21. LB 403-Work Eligibility Status:** The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

If the Contractor is an individual or sole proprietorship, the following applies:

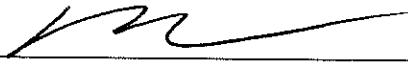
- a. The Contractor must complete the United States Citizenship Attestation Form.
- b. If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor agrees to provide to the Agency the US Citizenship and Immigration Services documentation required to verify the Contractor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
- c. The Contractor understands and agrees that lawful presence in the United States is required and the Contractor may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.

This Contract contains all terms and conditions agreed to by the Agency and the Contractor. The attachments to this Contract are as follows:

Attachment A, Scope of Work

WITNESS WHEREOF, the Agency and the Contractor have executed this Contract as of the date and year last written below.

Lincoln Action Program, Inc

By: 

Vi See/Executive Director
Print Name/Title

3/08/10
Date

City of Lincoln on behalf of the Lincoln-Lancaster County Health Department

By: _____

Chris Beutler/Mayor of Lincoln
Print Name/Title

Date
47-6006256
Federal ID

Scope of Work

Goal: For City of Lincoln on behalf of the Lincoln-Lancaster County Health Department (hereinafter Contractor) and Lincoln Action Program, Inc. (hereinafter Agency) to collaborate in promoting health-based standards of age appropriate development for up to 140 pregnant women and/or children enrolled in LAP's Early Head Start Program (hereinafter EHS).

1. Maintain communication with EHS staff.
 - a. For only those families from whom a Release of Information has been obtained: The reciprocal sharing of information between EHS and Contractor concerning family contact in a professional and confidential manner.
2. Provide nursing consultation for EHS staff regarding children or pregnant women with identified health risks.
 - a. Contractor will obtain authorization forms from EHS staff including, but not limited to: Family Contact Sheet, Release of Information, Physician Release and Hospital Release for pregnant women only.
 - b. Contractor will provide ongoing home visits per Contractor policy/protocol to all pregnant women enrolled in both EHS and Contractor home visitation programs.
 - c. Contractor will contact all clients dually enrolled in EHS services and Contractor home visitation services within 72 hours post delivery. Contractor will communicate date of postpartum visit and weight of infant to EHS staff via post or email.
 - d. Contractor will provide a primary point of contact for EHS staff requesting coordination of information and referral services.
 - e. Contractor will attend Head Start Health Services Advisory Committee meetings as scheduled.
 - f. EHS staff will email requests for immunization records on all EHS children to Contractor home visitation support staff. Contractor home visitation support staff will submit requested immunization records to EHS staff via post.
3. Contractor will submit quarterly activity reports which will include the number of families enrolled in both EHS and Contractor programs and documentation of in-kind goods and services.